IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO : 21131 of 1997

Dated: 01.02.2007

Between:
T.Balaji Singh, S/o Ram Singh, 32 years,
R/o Paderu, Visakhapatnam District.

..... PETITIONER

AND

1.The Collector, Visakhapatnam District.
2.The Mandal Revenue Officer, Paderu,
Visakhapatnam District.
3.The Superintendent of Excise,
Visakhapatnam. ..RESPONDENTS

THE HON'BLE MR JUSTICE GOPALA KRISHNA TAMADA

WRIT PETITION NO.21131 of 1997

ORDER:

This writ petition is filed challenging the proceedings issued by the respondents on 23.08.1997 under Section 8 of the Revenue Recovery Act and under the auction conditions as well as Rule 18 (2) of the A.P. Excise (Lease of Right to sell Indian Liquor, Foreign Liquor in Retail) Rules, 1993.

Brief facts are that the 1st respondent-District Collector issued a Gazette notification No.45 of 1997 dated 06.04.1997 for auctioning I.L and F.L shops for the year 1997-98 and accordingly auction was conducted on 15.04.1997 at Zilla Parishad Meeting Hall, Visakhapatnam. Since the

petitioner quoted the highest bid of Rs.19,52,350/- for Paderu shop in Visakhapatnam District, the bid was knocked down in his favour. The petitioner has deposited an amount of Rs.1,00,000/- towards Earnest Money Deposit. Subsequently since the petitioner has not paid the lease amount even after the prescribed time, he became a defaulter and consequently the said shop was reauctioned on 04.05.1997 and was confirmed in favour of one S.Satyanandham at Rs.10,12,300/-. After appropriating the E.M.D of Rs.1,00,000/- paid by the petitioner, the 1st respondent assessed the loss at Rs.8,40,050/- and, therefore, he instructed the 2nd respondent-Mandal Revenue Officer to realize the said amount from the petitioner. Accordingly, the 2nd respondent issued notice under Section 8 of the Revenue Recovery Act for recovery of an amount of Rs.8,40,050/-. This is challenged in this writ petition.

A detailed counter-affidavit has been filed on behalf of the 3rd respondent stating that the proceedings initiated against the petitioner for realizing the resultant loss due to reauction of the shop at Paderu village under the Revenue Recovery Act are within the jurisdiction and legal.

Heard both sides.

Learned Counsel for the petitioner submits that the loss due to reauction of the shop in question is only on paper but actually there is no loss in reality. He further submits that Paderu village area is under the influence of Naxals and it is only because of the threat given by Naxalites the petitioner could not proceed with the auction proceedings though he had deposited Rs.1,00,000/- towards Earnest Money Deposit. Hence the proceedings under Section 8 of the Revenue Recovery Act are unwarranted.

If really due to fear of Naxalites the petitioner could not proceed with the auction proceedings, it is not known as to how the other person, viz., S.Satyanandham in whose favour re-auction was confirmed, could proceed with the auction proceedings at Paderu village. The respondents have got every right to recover the amount from the petitioner, as it is a loss caused on account of his failure. I find no merit in this writ petition.

The writ petition is accordingly dismissed. However, it is open for the petitioner to submit any representation to the respondents, if he so chooses, within two weeks from the date of receipt of a copy of this order and if it is filed, the respondents may dispose of the same within two weeks thereafter. No costs.

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(GOPALA KRISHNA TAMADA, J)

01-02-2007
Gsn.